

**RESPONSE TO RESTRICTION REQUIREMENT**

Serial Number: 10/780,968

Filing Date: February 18, 2004

Title: ELECTROCHEMICAL CELL AND FUEL CELL WITH CURABLE PERFLUORO-SULFONATE

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**REMARKS**

In the Restriction Requirement mailed March 16, 2007, the Examiner has restricted the claims to one of the following inventions under 35 U.S.C. 121:

- I. Claims 1-28 drawn to an electrochemical cell comprising a perfluorosulfonate ionomer based electrolyte, classified in class 429, subclass 46.
- II. Claims 29-34, drawn to a method of producing a curable liquid electrolyte, classified in class 429, subclass 12.

Applicant elects, without traverse, Group I, claims 1-28. Applicant respectfully cancels claims 29-34 (Group II) without prejudice or disclaimer, and reserves the right to reintroduce them in one or more Divisional applications at a later date.

**Election of Species**

The Examiner has indicated that if Group I is selected, a further Election of Species is required. Applicant respectfully traverses this requirement, but provisionally elects the monomer species of Claims 1-13. An Election of Species requirement may be proper if the species are mutually exclusive from one another and an examination of each would be unreasonable. Applicant proposes that both these requirements are not met.

**Mutually Exclusive**

The Examiner has indicated that the two species at issue are 1) a monomer [Claim 1 and dependents] and 2) a polar monomer [Claim 14 and dependents] with a polar solvent for dissolving the polar monomer. Rather than being mutually exclusive, a polar monomer is simply one type of monomer. A polar monomer may be a monomer and, as such, could not be mutually exclusive of one another. In regard to the polar solvent, it is simply a further limitation of Claim 14 and does not distinguish the polar monomer from the monomer in any mutually exclusive way. If Claim 1 lists a number of elements, including a monomer, and Claim 14 lists the same

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elements with the exception of a narrower type of monomer (polar monomer) and an additional element (polar solvent), then it seems clear that Claim 1 is generic to Claim 14 and in no way mutually exclusive. Further, the polar solvent requirement of Claim 14 does not preclude the use of any particular solvent in Claim 1, as Claim 1 does not have a solvent element. Therefore, the polar solvent does not exclude any part of Claim 1. Applicant respectfully requests that the Election of Species requirement be removed and a search performed for Claims 1-28.

**Unreasonable to Examine**

Applicant recognizes that the reasonableness of examination is at the Examiner's discretion. But, it seems clear in this case that either all remaining claims are generic or, if not, then at least the species are so close that it would not be unreasonable to examine all claims together. The difference between a monomer and polar monomer hardly requires separate searching in the literature as one is a sub-set of the other. The limitation of a polar solvent also does not add any significant burden to the searching or examination as the claims are directed to a composition. Applicant respectfully requests that the Election of Species requirement be removed and a search performed for Claims 1-28.

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**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6920 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

STEVEN HOLDCROFT ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938

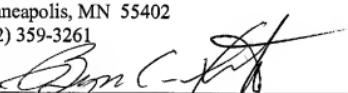
Minneapolis, MN 55402

(612) 359-3261

Date

5/6/07

By

  
Benjamin C. Armitage  
Reg. No. 57,213

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 16<sup>th</sup> day of May 2007.

Name

Dawn M. Bouie

Signature

Dawn M. Bouie